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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

AGENSYS, INC. and ASTELLAS
PHARMA, INC.,

Plaintiffs,

v.

HANS DAVID ULMERT and
NORBERT PEEKHAUS,

Defendants.

Case No. 2:24-cv-03961-CV (PDx)

**JOINT CASE MANAGEMENT
STATEMENT**

Judge: Honorable Cynthia Valenzuela
Courtroom 5D

1 Plaintiffs Agensys, Inc. and Astellas Pharma, Inc. (collectively “Agensys”),
2 Defendant Hans David Ulmert (“Ulmert”) and Defendant Norbert Peekhaus
3 (“Peekhaus”) by and through their undersigned counsel, advise the Court of the
4 following:

5 **I. THE DATE THE CASE WAS FILED.**

6 The complaint was filed May 13, 2024.

7 **II. A LIST IDENTIFYING OR DESCRIBING EACH PARTY**

- 8 1. Plaintiff Agensys Inc. is a California corporation that was founded in
9 1997 in Santa Monica, California as a biotechnology company
10 specialized in therapeutic antibody research and development in cancer.
- 11 2. Plaintiff Astellas Pharma, Inc. is a global life sciences company and
12 owner of Agensys.
- 13 3. Defendant Dr. Hans David Ulmert is an individual employed by the
14 Regents of the University of California at its UCLA campus.
- 15 4. Defendant Dr. Norbert Peekhaus is an individual, a former employee of
16 Agensys, and former employee of UCLA.

17 **III. A BRIEF SUMMARY OF ALL CLAIMS, COUNTERCLAIMS,**
18 **CROSSCLAIMS, OR THIRD PARTY CLAIMS**

19 Plaintiffs’ Second Amended Complaint asserts claims as follows:

- 20 1. First Cause of Action: Misappropriation of Trade Secrets Under the
21 Defend Trade Secrets Act (18 U.S.C. §§1836-39) by Agensys and
22 Astellas Against Drs. Ulmert and Peekhaus;
- 23 2. Second Cause of Action: Declaratory Judgment (28 U.S.C. § 2201) by
24 Agensys and Astellas Against Drs. Ulmert and Peekhaus;
- 25 3. Third Cause of Action: Breach of Contract (Inventions Assignment
26 Provisions) by Agensys Against Dr. Peekhaus; and
- 27 4. Fourth Cause of Action: Breach of Contract (Confidentiality
28 Provisions) by Agensys Against Dr. Peekhaus.

1 No counterclaims, crossclaims or third party claims are pending.

2 **IV. A BRIEF DESCRIPTION OF THE EVENTS UNDERLYING THE**
3 **ACTION**

4 Plaintiffs' Description of Events:

5 Plaintiffs assert theft of intellectual property by former Agensys scientist
6 Norbert Peekhaus and UCLA assistant professor Hans David Ulmert. Plaintiffs
7 created novel antibodies in a years-long research program at Agensys in Santa
8 Monica, California. Defendants improperly used Plaintiffs' trade secrets to
9 commercialize and patent Plaintiffs' inventions at UCLA without Plaintiffs' consent.
10 Defendants stole Plaintiffs' lead antibody candidate and backup candidates for a
11 particular cancer therapy. The Agensys antibodies are used to create highly targeted
12 drugs that selectively attack a protein known as "LRRC15" associated with many
13 types of cancer cells. Defendants engaged in acts to commercialize Plaintiffs' trade
14 secrets through numerous third party entities. Defendants also used the Agensys lead
15 antibody and secret amino acid sequences in patent applications naming Peekhaus
16 and Ulmert as inventors and the Regents of the University of California ("Regents")
17 as assignee. Peekhaus admits that he took the Agensys antibodies to UCLA and
18 disclosed them to Ulmert, and Ulmert admits he acquired the Agensys antibodies
19 from Peekhaus. Defendants' actions constitute misappropriation of trade secrets, and
20 Peekhaus' conduct breached his contract with Agensys.

21 Defendant Dr. Ulmert's Description of Events:

22 Dr. Ulmert disputes Plaintiffs' allegations and description of events and he
23 asserts that neither he nor Dr. Peekhaus misappropriated any trade secrets. Plaintiffs
24 abandoned the alleged trade secrets prior to Dr. Ulmert's research at UCLA, and
25 Plaintiffs engaged in no efforts—let alone reasonable efforts—to protect any trade
26 secrets they may have possessed. Agensys ceased operations in 2017, and Astellas,
27 having determined Agensys to be an unviable investment, made no efforts to continue
28 or commercialize its research. Plaintiffs took no steps to safeguard any purported

1 trade secrets, allowing former employees, including Dr. Peekhaus, to retain research
2 materials without restriction. Notably, Plaintiffs did not ask Dr. Peekhaus to return
3 all property and documents from his employment with Agensys, nor did Plaintiffs
4 ask Dr. Peekhaus to represent he had no property or documents from his employment
5 with Agensys. Plaintiffs also did not take sufficient measures to protect their
6 electronic files at the time of Agensys's shutdown and cessation of operations, such
7 as by conducting forensic analyses to confirm that employees had not emailed
8 documents to their personal email addresses or copied documents to hard drives. To
9 the extent Plaintiffs did conduct such analyses at or around the time of the Agensys
10 shutdown, their claims are barred by the applicable statutes of limitations.

11 Further, Dr. Ulmert's work, and the patents at issue, are based on independent
12 scientific research and longstanding public knowledge regarding LRRC15 as a
13 cancer target. Upon joining UCLA in 2018, Dr. Ulmert conducted novel research on
14 LRRC15 in the radiotheranostics space, an approach fundamentally different from
15 Agensys' antibody-drug conjugate (ADC) research. His work involved substantial
16 innovation, including in vitro and in vivo studies, which ultimately led to the
17 inventions described in the patent applications filed by UCLA. Dr. Ulmert's research
18 and the inventions described in the patent applications aim to advance cancer
19 treatments that Plaintiffs themselves never pursued.

20 Defendant Dr. Peekhaus's Description of Events:

21 Dr. Peekhaus joins in Dr. Ulmert's description of events. He further adds that
22 the agreement that Agensys claims he breached is unenforceable on multiple
23 grounds.

24 **V. A DESCRIPTION OF THE RELIEF SOUGHT AND THE DAMAGES**
25 **CLAIMED WITH AN EXPLANATION OF HOW DAMAGES HAVE**
26 **BEEN (OR WILL BE) COMPUTED**

27 Plaintiffs' Position:

28 Plaintiffs seek monetary, declaratory, and injunctive relief and specific

1 performance.

2 For damages caused by Defendants' interactions with Regents of the
3 University of California, Plaintiffs claim damages resulting from Defendants'
4 misappropriation including (1) actual losses resulting from loss of patent rights, loss
5 of control of patent rights, and shortened patent life due to the timing of the filing
6 and publication of Plaintiffs' trade secrets earlier in time than would have been the
7 case absent Defendants' misappropriation; and amounts paid to Peekhaus including
8 severance pay of \$61,013, value of COBRA group health benefits paid for Peekhaus,
9 the gross lump sum of \$10,000 paid to Peekhaus for outplacement services, bonus
10 paid to Peekhaus, and other amounts paid to Peekhaus in connection with his
11 Confidential Separation Agreement and Release; (2) unjust enrichment in forms and
12 amounts in the expert opinions to be provided on the date set by the court for
13 disclosure of affirmative expert reports including unjust enrichment from
14 Defendants' use of technology that Plaintiffs licensed from Regeneron, unjust
15 enrichment from Defendants' dealings with Regents of the University of
16 California/UCLA, and unjust enrichment amounts Peekhaus and Ulmert received
17 from use, disclosure or licensing of Plaintiffs' trade secrets; (3) reasonable royalty
18 damages in an amount in the expert opinions to be provided on the date set by the
19 court for disclosure of affirmative expert reports; (4) interest on damages;
20 (5) exemplary damages in an amount not more than two times the amount of
21 compensatory damages; and (6) reasonable attorneys' fees.

22 For damages caused by Defendants outside of their interactions with Regents
23 of the University of California, Plaintiffs claim damages resulting from Defendants'
24 misappropriation including (1) actual losses resulting from loss of patent rights, loss
25 of control of patent rights, and shortened patent life due to the timing of the filing
26 and publication of Plaintiffs' trade secrets earlier in time than would have been the
27 case absent Defendants' misappropriation; and amounts paid to Peekhaus including
28 severance pay of \$61,013, value of COBRA group health benefits paid for Peekhaus,

1 the gross lump sum of \$10,000 paid to Peekhaus for outplacement services, bonus
2 paid to Peekhaus, and other amounts paid to Peekhaus in connection with his
3 Confidential Separation Agreement and Release; (2) unjust enrichment in forms and
4 amounts in the expert opinions to be provided on the date set by the court for
5 disclosure of affirmative expert reports including unjust enrichment from
6 Defendants' use of technology that Plaintiffs licensed from Regeneron, unjust
7 enrichment from Defendants' dealings with Pharma15 Corporation, Radiopharm
8 Theranostics (USA) Inc., Radiopharm Theranostics Limited, Lantheus Holdings,
9 Inc., Gensun Biopharma Inc., Uptake Bio AB, Shuzhou Zelgen Biopharmaceuticals
10 Co., Ltd., Shanghai Zelgen Pharma. Tech Co. Ltd, Lund University, Innovagen AB,
11 and Kite Pharma, Inc. and unjust enrichment amounts Peekhaus and Ulmert received
12 from use, disclosure, or licensing of Plaintiffs' trade secrets; (3) reasonable royalty
13 damages in an amount in the expert opinions to be provided on the date set by the
14 court for disclosure of affirmative expert reports; (4) interest on damages;
15 (5) exemplary damages in an amount not more than two times the amount of
16 compensatory damages; and (6) reasonable attorneys' fees.

17 In declaratory relief, Plaintiffs seek a declaration that Ulmert and Peekhaus
18 have no legal right to use or disseminate Plaintiffs' trade secrets and related
19 confidential information and that all benefits, including compensation, upfront
20 payments, milestones, royalties, or other payments (or allocations thereof) resulting
21 from such use or dissemination shall be the property of Agensys; a declaration that
22 Agensys has legal or equitable ownership or coownership and interest in the Patent
23 Rights, and all related patents, patent applications, continuations, continuations-in-
24 part, divisionals, and foreign or U.S. counterparts thereto, including, but not limited
25 to, U.S. Patent Application No. 17/915,377; U.S. Provisional Application
26 No. 63/003,598; and International Application No. PCT/US2021/025054,
27 inconsistent and superior to any interest asserted by Defendants and without being
28 subject to any license purportedly granted by Regents; and a declaration that Agensys

1 has the right to prosecute the Patent Rights, and all related patents, patent
2 applications, continuations, continuations in-part, divisionals, and foreign or U.S.
3 counterparts thereto.

4 In injunctive relief, Plaintiffs seek a permanent injunction: (a) requiring
5 Ulmert and Peekhaus, and any other individuals and entities acting in concert with
6 them, to return all of Agensys' confidential information; (b) requiring Ulmert and
7 Peekhaus to disclose and assign to Agensys any and all inventions, including all
8 pending patent applications and issued patents, of which Agensys is the rightful
9 owner or which contain or are derived from Plaintiffs' trade secrets or other
10 confidential information; (c) prohibiting Ulmert and Peekhaus and those acting in
11 concert with them from using Plaintiffs' trade secrets, confidential information, and
12 inventions without Agensys' consent; and (d) enjoining Ulmert and Peekhaus from
13 further prosecution of patent applications, without Agensys' consent and control, of
14 which Agensys is the rightful owner or which contain or are derived from Plaintiffs'
15 trade secrets or other confidential information.

16 In specific performance, Plaintiffs seek a judgment that Agensys is entitled to
17 specific performance by Peekhaus of all provisions in his Employment Agreement
18 with Agensys, including the assignment of all exclusive ownership, rights, and titles
19 developed within the scope of his employment, to Agensys.

20 Defendant Dr. Ulmert's Position:

21 Dr. Ulmert disputes Plaintiffs' claims for damages and injunctive relief, and
22 asserts that Plaintiffs are not entitled to any relief.

23 First, Plaintiffs abandoned the underlying research in 2017 when Agensys
24 ceased operations. They failed to patent or protect the work and made no efforts to
25 develop it into a viable product. For more than seven years, Plaintiffs took no steps
26 to commercialize or otherwise pursue any scientific advancements related to their
27 alleged trade secrets.

28 Second, there was no misappropriation by Dr. Ulmert. His work on LRRC15-

1 focused radiotheranostics is fundamentally distinct from Agensys' abandoned
2 antibody-drug conjugate (ADC) approach. Dr. Ulmert conducted substantial and
3 independent research at UCLA, leading to the development of novel therapeutic
4 applications that Plaintiffs had never pursued. The patent applications filed by
5 UCLA are the product of this independent innovation, not any alleged trade secrets
6 of Plaintiffs.

7 Third, Plaintiffs have failed to demonstrate any financial harm. Their damages
8 calculations are entirely speculative. Plaintiffs' claim for damages against Dr.
9 Ulmert is especially attenuated because there is no evidence that he personally
10 profited from any alleged misappropriation.

11 Finally, Plaintiffs' request for injunctive relief is unwarranted and anti-
12 competitive. Plaintiffs never commercialized their alleged trade secrets, did not
13 develop them into a viable treatment, and are now attempting to use this lawsuit to
14 block critical university research that could benefit cancer patients. Granting
15 Plaintiffs' requested relief would undermine scientific progress and set a precedent
16 that stifles academic innovation and public health advancements.

17 Defendant Dr. Peekhaus's Position:

18 Dr. Peekhaus joins in the statement set forth by Dr. Ulmert, and adds that
19 Agensys is not entitled to any relief on its claims for breach of contract.

20 **VI. THE STATUS OF DISCOVERY, INCLUDING ANY SIGNIFICANT**
21 **DISCOVERY MANAGEMENT ISSUES, AS WELL THE**
22 **APPLICABLE CUTOFF DATES**

23 Plaintiffs began taking written discovery in July 2024. Currently the parties
24 are taking written discovery and fact depositions. Per this Court's Order Granting
25 Stipulation to Amend Scheduling Order, discovery cutoff is June 26, 2025. (Dkt.
26 113).

27 Plaintiffs presently have discovery management issues in (1) securing written
28 discovery from Peekhaus, Ulmert and Regents; and (2) securing deposition dates

1 from Ulmert and Regents.

2 Defendant Dr. Ulmert has a potential discovery management issue in that
3 numerous of Plaintiffs' discovery responses, served on February 14, 2025, are
4 deficient. Dr. Ulmert's counsel intends to meet and confer with Plaintiffs' counsel
5 on these deficient responses.

6 **VII. A PROCEDURAL HISTORY OF THE CASE, INCLUDING ANY**
7 **PREVIOUS MOTIONS THAT WERE DECIDED OR SUBMITTED,**
8 **ANY ADR PROCEEDINGS OR SETTLEMENT CONFERENCES**
9 **THAT HAVE BEEN SCHEDULED OR CONCLUDED, AND ANY**
10 **APPELLATE PROCEEDINGS THAT ARE PENDING OR**
11 **CONCLUDED**

12 The parties mediated in private mediation before Jeff Kichaven on January 21,
13 2025. The matter did not settle. While no further ADR is scheduled, the parties will
14 engage in further facilitated discussions as appropriate.

15 Defendants moved to dismiss the complaint and in response Plaintiffs filed an
16 amended complaint. Defendants moved to dismiss the amended complaint and those
17 motions were granted in part and denied in part, with leave to amend. Defendants
18 moved to dismiss the second amended complaint and those motions were denied.

19 No appellate proceedings have been filed.

20 **VIII. A DESCRIPTION OF ANY OTHER DEADLINES IN PLACE;**
21 **BEFORE REASSIGNMENT**

22 Pursuant to the Court's Order Granting Stipulation to Amend Scheduling
23 Order, Dkt. 113, deadlines before reassignment have been modified as follows:

24

Event	Current Date
Trial (jury)	To be reset by Court (See Dkt. 109)

25
26
27
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Event	Current Date
[Jury trial] Hearing on Motions in Limine; Hearing on Disputed Jury Instructions	To be reset by Court (See Dkt. 109)
Pre-Trial Conference (File Proposed Voir Dire Qs and Agreed-to Statement of Case three days prior to PTC)	To be reset by Court (See Dkt. 109)
Submit Pre-Trial Conf. Order; File Motions in Limine; Memo of Contentions of Fact and Law; Pre-Trial Exhibit Stipulation; Summary of Witness Testimony and Time Estimates; File Status Report re: Settlement; File Agreed Upon Set of Jury Instructions and Verdict Forms; File Joint Statement re Disputed Instructions, Verdicts, etc.	8/6/25
Last day for hearing motions	7/14/25
Discovery cut-off	6/26/25
Rebuttal Expert Disclosures	5/23/25 (5 weeks before discovery cutoff)
Affirmative Expert Disclosures	5/2/25 (8 weeks before discovery cutoff)

IX. WHETHER THE PARTIES WILL CONSENT TO A MAGISTRATE JUDGE FOR TRIAL

The parties do not consent to a magistrate judge for trial.

X. A STATEMENT FROM EACH PARTIES' COUNSEL INDICATING THEY HAVE (1) DISCUSSED THE MAGISTRATE JUDGE CONSENT PROGRAM WITH THEIR RESPECTIVE CLIENT(S), AND (2) MET AND CONFERRED TO DISCUSS THE CONSENT PROGRAM AND

1 **SELECTION OF A MAGISTRATE JUDGE**

2 Lead counsel for Plaintiffs, Randall Kay, has discussed the magistrate judge
3 consent program with Plaintiffs and has met and conferred to discuss the consent
4 program and selection of a magistrate judge with lead counsel for Defendants.

5 Lead counsel for Defendant Dr. Ulmert, David Tsai, has discussed the
6 magistrate judge consent program with Dr. Ulmert and has met and conferred to
7 discuss the consent program and selection of a magistrate judge with lead counsel for
8 Plaintiffs and Dr. Peekhaus.

9 **XI. WHETHER THERE IS AN IMMEDIATE NEED FOR A**
10 **SCHEDULING CONFERENCE AND, IF SO, WHY THE PARTIES**
11 **BELIEVE SUCH A NEED EXISTS.**

12 While the parties do not have an immediate need for a Scheduling Conference,
13 the parties jointly request the setting of trial to begin the week of September 15, 2025.
14 To the extent a later trial date is set, Defendants expressly reserve the right to seek a
15 further modification of the scheduling order to align the discovery dates with the new
16 trial date.

17
18 Dated: February 20, 2025

JONES DAY

19
20 By: s/ Randall E. Kay

21 Randall E. Kay
22 Attorneys for Plaintiffs Agensys, Inc.
 and Astellas Pharma, Inc.

23 Dated: February 20, 2025

PILLSBURY WINTHROP SHAW
24 PITTMAN LLP

25
26 By: s/ David J. Tsai

27 David J. Tsai
28 Attorneys for Defendant Hans David
 Ulmert

1 Dated: February 20, 2025

BALLARD ROSENBERG GOLPER &
SAVITT, LLP

2
3 By: s/ John J. Manier

4 John J. Manier

5 Attorneys for Defendant Norbert
6 Peekhaus
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ATTESTATION

Pursuant to Local Rule 5-4.3.4(a)(2)(i), all signatories listed, and on whose behalf the filing is submitted, concur in the filing's content and have authorized the filing by email.

Dated: February 20, 2025

s/ Randall E. Kay
Randall E. Kay